

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Michael J. Polcyn

Confirmation No.: 7216

Application No.: 09/574,317

Art Unit: 2614

Filed: May 19, 2000

Examiner: B. Q. Bui

For: ONE NUMBER LAN BASED CALENDAR

APPELLANT'S REPLY TO EXAMINER'S ANSWER

M/S Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This Reply Brief is presented in response to the Examiner's Answer mailed February 1, 2007 (hereinafter Examiner's Answer). This Reply Brief is also in furtherance of the Notice of Appeal, dated June 28, 2002, and Appellant's Supplemental Appeal Brief and Request for Reinstatement of Appeal, dated August 29, 2003. This Reply Brief is accompanied by a Request for Oral Hearing.

Appellant filed a Request for Oral Hearing on February 18, 2004 and paid the applicable fees. To date there has been no formal hearing. Therefore, Applicant believes Applicant is entitled to an Oral Hearing based on the Request for Oral Hearing filed on February 18, 2004 with its attendant payment of fees. Nonetheless, accompanying this request is another Request for Oral Hearing with authorization to withdraw from a deposit account if any fees are in fact due.

Appellant respectfully requests withdrawal of the final rejection and allowance of the above-captioned application. Should the Appellee not find the comments contained herein persuasive, acknowledgment of receipt and entry of this Reply Brief is requested.

I. STATUS OF THE CLAIMS**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

There are 19 claims pending in the present application identified as claims 1 through 15 and 17 through 20.

B. CURRENT STATUS OF CLAIMS

1. Claims pending: 1 – 15 and 17 – 20
2. Claims cancelled: 16
3. Claims withdrawn from consideration but not cancelled: None
4. Claims rejected: 1-5, 8-12, 15 and 17-19
5. Claims objected to: None

II. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-5, 8-12, 15 and 17-19 properly stand rejected under 35 U.S.C. § 102(b) as being anticipated by Arbel et. al, U.S. Pat. No. 5,276,731 (hereinafter *Arbel*).

III. REJECTIONS WITHDRAWN

It should be noted that Appellee has withdrawn the rejection of claims 6-7, 13-14 and 20 under 35 U.S.C. § 102(b).

IV. ARGUMENTS

Appellant hereby incorporates and reasserts the arguments, pertinent to the remaining rejections, presented in Appellant's Supplemental Appeal Brief dated August 29, 2003 and Appellant's Reply dated February, 18, 2004. In the interest of brevity, Appellant does not repeat all the arguments in the documents Appellant has already filed. Rather, Appellant addresses the remarks contained in the Examiner's Answer. The following sub-topics do not represent a grouping of claims but are merely headings reflecting how the Appellee presented arguments in the Examiner's Answer.

A. CLAIMS 1, 8 AND 15

In response to Appellant's assertion that *Arbel* does not teach the "calendar ing information" of claims 1, 8 and 15, Appellee asserts as follows:

Any specific year, month, date or day allocated for a desired event, for example for a specific time interval such as from 08:00AM to 04:00PM on Saturday and Sunday, in the event of absence from a shift, calls directed to Peter Parker should be transferred to a first or second target extension.

Examiner's Answer, page 5.

Using Appellee's own example, all Parker has done is to select a period for re routing calls. *See* col. 10, lines 10 – 28 (“Parker sets up a **selective call re-routing entry** in the database to transfer his incoming calls ... Parker's **selection criteria** are based only on time and day of the week.”) (emphasis added). Parker has identified the period 08:00 am to 04:00 pm on Saturday and Sunday for his calls to be re routed to someone else. This selection, by Parker, of the period during which Parker's calls should be re-routed, is not calendaring information with respect to a called party as required by claim 1, calendaring information including specific events scheduled with respect to a called party as required by claim 8 or calendaring information with respect to a called party which comprises a data file of an electronic calendar program as required by claim 15. Examiner has not cited to any part of *Arbel* where Parker, or any called party, provides any information meeting the recited calendaring information and therefore does not show *Arbel* teaches the calendaring information of claims 1, 8 or 15.

Contrary to Appellee's contention, the example in *Arbel* does not teach “absence from a shift” as an event stored anywhere in the *Arbel* system. Rather, “absence from a shift” is only one reason why Parker may decide to pre-determine 08:00 am to 04:00 pm is the period Parker would like to have his calls transferred. *See* col. 10, lines 12 - 16 (stating, “Parker sets up a selective call re-routing entry in the database to transfer his incoming calls to the other foremen when it is not his shift.”)

Consequently, *Arbel* does not teach calendaring information with respect to the called party stored on a general purpose processor-based system as required by claim 1. Similarly, *Arbel* does not teach storing calendaring information including specific events scheduled with respect to said called party on a general purpose processor-based system as required by claim 8 or calendaring information with respect to said called party stored in a data format as required by claim 15. Thus, *Arbel* does not teach all the limitations of claims 1, 8 and 15.

B. CLAIMS 2, 9 AND 15

With regard to claims 2, 9 and 15, Appellee asserts, “‘data file associated with an electronic calendar program operable on a personal computer’ ... at best, this reads on any data file that is ‘operable on a personal computer.’” Examiner’s Answer, page 7. Appellant directs the Board’s attention to the relevant limitation in claim 2 (as an example). Claim 2 recites a data file associated with a electronic calendar program. Appellee, therefore, does not show *Arbel* teaches this limitation, by showing “any data file that is operable on a computer.” Furthermore, Appellee’s attempt to show the data file is associated with a calendar program is flawed for at least two reasons.

First, Appellee has not shown there is a calendaring program taught anywhere in *Arbel*. Appellee attempts to show a data file associated with a calendaring program by asserting, “Arbel and PC’s, inherently, process a ‘data file’ ‘associated’ with ‘calendaring information.’” Examiner’s Answer, page 7. As discussed above, however, Appellee, has not shown that *Arbel* teaches any calendaring information with respect to a called party stored on a general purpose processor-based system, within the *Arbel* system.

Second, Appellee relies on inherency for the teaching that the data file is associated with a calendar program. *See id.* (stating, “Arbel and PC’s, inherently, process a ‘data file’”). Contrary to Appellee’s assertion, there is no inherent teaching here. “Inherency. . . may not be established by probabilities or possibilities.” *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (C.C.P.A. 1981). In other words, for Appellee to demonstrate that a missing limitation is inherent to the applied art, the Appellee has to show the missing limitation must necessarily be present in the applied art. *See Continental Can Co. U.S.A. v. Monsanto Co.*, 948 F.2d 1264, 20 USPQ2d 1746 (Fed. Cir. 1991) (citing *In re Oelerich*). Appellant respectfully submits that Appellee has not shown that a data file associated to a calendaring program is necessarily present in *Arbel*.

For the reasons stated above, Appellee has not shown *Arbel* teaches the limitations of claims 2, 9, and 15.

C. CLAIMS 3, 10 AND 17

In supporting the rejection of claims 3, 10 and 17, Appellee asserts, “Arbel et al disclose the database 360 for automatically providing a selected portions of the calendaring information such as an appropriate telephone number for a specific time and day.” Examiner’s Answer, page 7. Here, in effect, Appellee asserts that a portion of “calendaring information” is “an appropriate telephone number for a particular time or day.” Appellant respectfully submits that, in *Arbel*, the telephone number for a particular time or day is a selection made by the called party and not calendaring information with respect to a called party stored on a processor based system. Accordingly, Appellee has not shown *Arbel* teaches automatically providing select portions of said calendaring information to an automatic call routing system, as required by claims 3 and 10. Similarly, Appellee has not shown *Arbel* teaches an algorithm to automatically provide portions of said calendaring information to said call routing system as required by claim 17.

D. CLAIMS 4, 11 AND 18

In rejecting claims 4, 11 and 18, Appellee asserts *Arbel* teaches automatic operation upon modification of calendaring information stored on a general purpose processor-based system. Examiner’s Answer, page 7. In support of this assertion, Appellee states that “Peter Parker is enabled to set up a selective call re-routing entry (e.g., specific time, day and appropriate telephone numbers) in the database. Inherently Peter Parker can set it up again” *Id.* at pages 7 – 8. Appellee, however, does not show the portion of the limitation, in claim 4 (as an example), requiring calendaring information is stored on a general purpose processor based system which, when this calendaring information is updated, select portions are automatically provided to a call routing system. Thus, Appellee cannot show automatic operation being initiated based upon the modification of such stored calendaring information. Appellee has not shown, therefore, that *Arbel* teaches all the limitations of claims 4, 11 and 18.

E. CLAIMS 5, 12 AND 19

In supporting the rejection of claims 5, 12 and 19, Appellee asserts *Arbel* teaches “automatic operation of said providing means is initiated at a pre-selected time interval.” See Examiner’s Answer, page 8. Appellee further asserts:

Arbel et al teach that in response to an incoming call, in a pre-selected time interval such as from 04:00 pm to 12:00 am on Saturday and Sunday, a database 360 is initiated and automatically provides the appropriate telephone number(s) where the incoming call should be directed to in the event of Peter's absence.

Examiner's Answer, page 8.

Considering claim 5 as an example, the providing means in the limitation Appellee asserts *Arbel* teaches, is the means for providing select portions of the calendaring information. In using the Peter Parker example above, Appellee equates "appropriate telephone number(s)" to calendaring information with respect to a called party stored on a general-purpose processor based system. As discussed above, telephone numbers are not calendaring information. Therefore, Appellee has not shown automatic means for providing select calendaring information at a preselected interval as required in claim 5. Accordingly, Appellee has failed to show that *Arbel* teaches all the limitations of claims 5, 12 and 19.

V. CONCLUSION

To summarize, appellant submits that all the claims on appeal are patentable because *Arbel* does not teach all the limitations of these claims. For the reasons set forth in Appellant's Supplemental Brief, Appellant's Reply and the arguments above, Appellant respectfully submits that claims 1 – 5, 8 – 12, 15 and 17 – 19 are patentable over *Arbel*.

Appellant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 47524/P069D2/10015700 from which the undersigned is authorized to draw.

Dated: March 30, 2007

Respectfully submitted,

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